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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 RACHEL MARIE WHITTED,

7 Plaintiff,

8 v.

9 NORTHERN NEVADA DEPARTMENT  
OF CORRECTIONS, *et al.*,

10 Defendants.

Case No. 3:21-cv-00087-MMD-WGC

ORDER

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12 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983  
13 by an inmate incarcerated at the Northern Nevada Correctional Center (“NNCC”). On  
14 February 22, 2021, the Court issued an order denying Plaintiff Rachel Whitted’s  
15 application to proceed *in forma pauperis* (“IFP”), without prejudice, because the  
16 application was incomplete. (ECF No. 3 at 2.) The Court ordered Whitted to file a complete  
17 IFP application or pay the full filing fee of \$402.00 on or before April 23, 2021. (*Id.* at 2.)

18 On March 9, 2021, Whitted submitted a statement regarding her financial  
19 certificate and filed a financial certificate (not on the Court’s approved form) and an inmate  
20 account statement. (ECF No. 4.) Thereafter, on April 12, 2021, Whitted filed a financial  
21 certificate on the Court’s approved form. (ECF No. 5.) The Court notes that even if all of  
22 Whitted’s individual IFP filings (ECF Nos. 1, 4, 5) are considered, Whitted has still not  
23 submitted page 3—the signed declaration page—of her IFP application. Whitted therefore  
24 has not filed a fully complete IFP application by the April 23, 2021 deadline, and the  
25 deadline has now expired.

26 District courts have the inherent power to control their dockets and “[i]n the  
27 exercise of that power, they may impose sanctions including, where appropriate . . .  
28 dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir.

1 1986). A court may dismiss an action, with prejudice, based on a party's failure to  
2 prosecute an action, failure to obey a court order, or failure to comply with local rules. See  
3 *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
4 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)  
5 (affirming dismissal for failure to comply with an order requiring amendment of complaint);  
6 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to  
7 comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone*  
8 *v. United States Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for  
9 failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.  
10 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

11 In determining whether to dismiss an action for lack of prosecution, failure to obey  
12 a court order, or failure to comply with local rules, the Court must consider several factors:  
13 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to  
14 manage its docket; (3) the risk of prejudice to Defendants; (4) the public policy favoring  
15 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
16 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
17 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.


18 Here, the Court finds that the first two factors, the public's interest in expeditiously  
19 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
20 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
21 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
22 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air W.*,  
23 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition of  
24 cases on their merits—is greatly outweighed by the factors in favor of dismissal discussed  
25 herein. Finally, a court's warning to a party that his or her failure to obey the court's order  
26 will result in dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963  
27 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's  
28 order requiring Whitted to file another IFP application or pay the full \$402.00 filing fee on

1 or before April 23, 2021 expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff  
2 does not file a fully complete application to proceed *in forma pauperis* with all three  
3 documents or pay the full \$402.00 filing fee for a civil action on or before April 23, 2021,  
4 this case will be subject to dismissal *without prejudice* for Plaintiff to refile the case with  
5 the Court, under a new case number, when Plaintiff has all three documents needed to  
6 file a complete application to proceed *in forma pauperis* or pays the the full \$402.00 filing  
7 fee." (ECF No. 3 at 3 (emphasis in original).) Whitted thus had adequate warning that  
8 dismissal would result from noncompliance with the Court's order to file another IFP  
9 application or pay the full \$402.00 filing fee on or before April 23, 2021.

10 It is therefore ordered that this action is dismissed without prejudice based on  
11 Plaintiff Whitted's failure to file a complete application to proceed *in forma pauperis* or pay  
12 the full \$402.00 filing fee in compliance with the Court's February 22, 2021 order (ECF  
13 No. 3).

14 The Clerk of Court is directed to enter judgment and will close this case. No other  
15 documents may be filed in this now-closed case.

16 DATED THIS 3<sup>rd</sup> Day of May 2021.

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20 MIRANDA M. DU  
21 CHIEF UNITED STATES DISTRICT JUDGE  
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